

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

| | | |
|---------------------------------|---|---------------------------|
| IN RE: |) | Case No: B-18-80009 C-13D |
| |) | |
| ALONZO WINFUL TERRELL, |) | |
| GWENDOLYN WOODS TERRELL, |) | |
| |) | |
| Debtors. |) | |
| _____ |) | |

**TRUSTEE’S OBJECTION TO NOTICE OF POST-PETITION FEES, EXPENSES,
AND CHARGES**

NOW COMES Richard M. Hutson, II, Standing Trustee and objects to the Notice of Post-Petition Fees, Expenses, and Charges filed by U.S. Bank Trust, N.A. (“U.S. Bank”) on May 30, 2018, and shows unto the Court the following:

JURISDICTION AND VENUE

1. This Court has proper and personal jurisdiction over the subject matter hereof and the parties hereto pursuant to 28 U.S.C. §§151, 157 and 1334, and Local Rule 83.11 entered by the United States District Court for the Middle District of North Carolina.
2. Venue is proper in this District pursuant to 28 U.S.C. §1409 in that this is an action arising in or related to a proceeding arising under Title 11 of the United States Code which is pending in this District, and this is a core proceeding within 28 U.S.C. §157.

PARTIES

3. On January 5, 2018, Alonzo and Gwendolyn Terrell (“the Debtors”) filed a voluntary petition under Chapter 13 of Title 11 of the United States Code in the United States Bankruptcy Court for the Middle District of North Carolina (“the petition date”).

4. Richard M. Hutson, II, was appointed as Trustee for the Debtors on January 5, 2018, and is duly qualified and acting as Trustee.

5. U.S. Bank is a creditor in this case having filed Claim #7 and is doing business in North Carolina.

CLAIMS FOR RELIEF

6. On May 17, 2018, U.S. Bank filed a claim (Claim #7) in the amount of \$59,636.93 secured by a deed of trust against the Debtors' real property located at 4629 McGhees Mill Road, Semora, NC ("the real property"). U.S. Bank asserted ongoing mortgage payments of \$757.53 per month and pre-petition arrearage of \$9,818.20.

7. On June 15, 2018, the Debtors' plan was confirmed and provided that the claim of U.S. Bank would be paid as a long-term debt through the Trustee's office and provided for a cure of any arrearage.

8. On May 30, 2018, U.S. Bank filed a Notice of Post-Petition Fees, Expenses and Charges ("the Notice") pursuant to Rule 3002.1(c) asserting attorney fees for plan review and filing of the claim in the amount of \$650.00, and fees for preparation of Form 410A in the amount of \$250.00. The total fees asserted in the Notice equal \$900.00.

9. The Trustee objects to the fees asserted in the Notice as the amount is unreasonably high.

10. The Trustee further objects to the fees because the Trustee has no evidence that U.S. Bank provided the required notice to the Debtors pursuant to N.C. Gen. Stat. §45-91 explaining the fees in a statement mailed to the Debtors within 30 days after assessing the fees. The failure of U.S. Bank to provide notice of the fee pursuant to N.C. Gen. Stat. §45-91 constitutes a waiver of said fee pursuant to N.C. Gen. Stat. §45-91(3).

11. Accordingly, the Trustee asks this Court to either disallow the supplemental claim in the amount of \$900.00 in full, or alternatively, reduce the fee to any reasonable amount as may be adequately documented by U.S. Bank.

WHEREFORE the Trustee prays the Court that:

1. The Objection be sustained and the supplemental claim for fees of \$900.00 in favor of U.S. Bank be disallowed;
2. Alternatively, that the supplemental claim of U.S. Bank be reduced to any reasonable amount as may be shown by U.S. Bank through adequate documentation and disclosure that meets the requirements of N.C. Gen. Stat. §45-91;
3. That this matter be set for hearing by the Court; and
4. For such further relief as the Court may deem just and proper.

This the 22nd day of June, 2018.

/s/ Benjamin E. Lovell
Benjamin E. Lovell
Attorney for the Trustee
State Bar No. 23266
P.O. Box 3613
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Telephone: (919) 688-8065

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| |) | |
| Debtors. |) | |
| | | |

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I have this day served a copy of the foregoing document upon all parties listed below, by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure, or by electronic service through CM/ECF,

Alonza Winful Terrell
Gwendolyn Woods Terrell
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Semora, NC 27343

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**** ECF ****

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101 South Edgeworth Street
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**** CERTIFIED MAIL ****
U.S. Bank Trust, N.A.
As Trustee for LSF 10 Master
c/o Caliber Home Loans
Attn: Officer
13801 Wireless Way
Oklahoma City, OK 73134

This the 22nd day of June, 2018

/s/Benjamin E. Lovell
Benjamin E. Lovell